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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,117	03/12/2004	Daniel P. Guyton	30011.24987	7081

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BROUSE McDOWELL  
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388 South Main Street, Suite #500  
Akron, OH 44311-4407

EXAMINER
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EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

MAIL DATE	DELIVERY MODE
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05/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/799,117	GUYTON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph F. Edell	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 22 February 2007.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,361,433 to Vanzant in view of U.S. Patent No. 6,113,188 to Stewart et al.

Vanzant disclose an air lifted seat apparatus that is basically the same as that recited in claims 1-3 and 6-8 except that the apparatus lacks a rigid base, a cover, a compartment, self-contained air compressor, and a second valve, as recited in the claims. See Figures 1-6d of Vanzant for the teaching that the apparatus has a one-piece inflatable bladder (see Fig. 1) including a rectangular front portion, a rectangular rear portion with a height at least three times the height of the front portion upon full inflation, and first and second trapezoidal shaped side panels operatively connected to the front and rear portions, a valve (see Fig. 2) operatively connected to one of the first and second side panels, an air compressor 14, and a hose 18,62 with first end connected to the compressor and a second end connected to the valve wherein the front portion rises in unison with the rear portion. Stewart et al. show an air lifted seat apparatus similar to that of Vanzant wherein the apparatus has a rigid base 12 (see Fig.

1), an inflatable bladder 16, a compartment (see Fig. 5) located near a side panel of the bladder, a rechargeable self-contained air compressor 18 connected to the base, a cover 14 positioned over the bladder and operatively connected to the base, and a valve 32 devoted to deflation. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Vanzant such that the apparatus has a rigid base connected to the bladder, a compartment located at one of the side panels of the bladder and operatively connected to the base, the air compressor is a rechargeable, self-contained, and positioned in the compartment, a cover positioned over the bladder and operatively connected to the base, and a second valve for deflation and operatively connected to a side panel, such as the apparatus disclosed by Stewart et al. One would have been motivated to make such a modification in view of the suggestion in Stewart et al. that the rigid base and cover provide a carrying case for transporting the apparatus, the self-contained air compressor in the compartment provides a battery powered compressor small enough to fit within the carrying case, and the deflation valve allows for lowering the bladder.

With respect to claims 3 and 8, modifying the height of the rear portion to be approximately 7 inches higher than the front portion at full inflation would have been obvious at the time of Applicant's inventions because the use of optimal or workable ranges discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the height of the rear portion of the bladder since Applicant has not disclosed that having the specific height range solves any stated problem or is for any particular purpose, and it appears

that the bladder would perform equally well with any well known height range used in the seat art.

3. Claims 4, 5, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanzant in view of Stewart et al. as applied to claims 1-3 and 6-8 above, and further in view of U.S. Patent No. 6,264,279 B1 to Chow.

Vanzant, as modified, discloses a seat apparatus that is basically the same as that recited in claims 4, 5, 9, and 10 except that the cover lacks a connecting means, as recited in the claims. Chow shows a seat apparatus similar to that of Vanzant wherein a cover 268 (Fig. 14a) has a removable connecting means and contains material to minimize slippage. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat apparatus of Vanzant such that the cover has a removable connecting means and contains material to minimize slippage, such as the seat apparatus disclosed in Chow. One would have been motivated to make such a modification in view of the suggestion in Chow that the removable cover protects from debris and is water resistant.

#### ***Response to Arguments***

4. Applicant's arguments filed 22 February 2007 have been fully considered but they are not persuasive. Initially, Applicant argues that Vanzant fails to teach first and second trapezoidal-shaped side panels operatively connecting front and rear portions. Figure 5b of Vanzant clearly shows that the side panels are trapezoidal in shape and connect front and rear portions of the inflatable bladder. Next, Applicant argues that the

neither Vanzant nor Stewart et al. teach a valve operatively connected to a side panel of the bladder. Vanzant teaches an air distribution system comprised on tubes 18,64,66 wherein the tubes are operatively connected to the side panels of bladder -- as shown in Figure 4. Stewart et al. teaches the utilization of including a valve to aid in controlling inflation and deflation of a bladder. Based on the teachings of Stewart et al., it would have been obvious to one skilled in the art to include a valve operatively connected to a side panel of the bladder taught in Vanzant via the air distribution system. Lastly, Applicant argues that neither Vanzant nor Stewart et al. teach a compartment located at one of the side panels of the bladder and operatively connected to the base. However, Stewart et al. clearly show two compartments located at one of a bladder panel and operatively connected to the base. See Figures 3-5 of Stewart et al. for the teaching that the air compressor 18 is housed with a compartment and the battery 19 is housed with a compartment, both of which are connected to the base 12.

With respect to Applicant's argument that Stewart et al. fail to provide motivation to combine the references for a lack of desirability, the inventive concept centrally addressed by Stewart et al. is the utilization of a portable seat to assist the user in sitting and standing. Stewart et al. teach a rigid carrying case housing the bladder, air compressor controlling inflation/deflation of the bladder via a valve, and battery. One skilled in the art would have been motivated to combine the teachings of Vanzant and Stewart et al. because of the desirable portable configuration taught in Stewart et al. Moreover to one skilled in the art, it would have been obvious to try to have a bladder

with a rigid base, an operatively connected valve, a compartment operatively connected to the base, in view of the teachings in Vanzant and Stewart et al.

With respect to the teachings of Chow, Applicant argues that Chow fails to teach a connecting means for a cover. Applicant attempts to differentiate the teachings of Chow because the flap 268 is connected to a *bag* 260, which is not specifically recited as a cover. From the teachings of Chow (as shown in Figure 14a), the cushion 200 is enclosed by a bag 260 having a bottom, side, and top that includes a flap 268 which is removably coupled to the bag's bottom. While Chow may have labeled the cushion enclosure as a "bag," one skilled in the art would have been motivated from the teachings in Chow to have a removable connected cover of a bladder enclosure wherein the cover contains material to minimize slippage. Moreover, claim 4 merely recites the cover include a removable connecting means. Vanzant clearly shows a cover with a connecting means connecting it to the bladder. Examiner reasonably interprets the modifier "removable" as being capable of being removed. Therefore, Vanzant may inherently teach a cover capable of being removed if adequate force is applied.

The rejection under 35 USC 103(a) drawn toward claims 3 and 8 was argued solely on the premise that the cited art does not teach or suggest the apparatus recited in amended claims 1, 2, 6, and 7, and as a result the above 35 USC 103(a) rejection of claims 3 and 8 remains.

Upon consideration of the Applicant's arguments, Examiner maintains the rejections of claims 1-10.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3636



Joe Edell

May 10, 2007